

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of

FAMILY BROADCASTING, INC.

Order to Show Cause Why the Licenses for
Stations WSTX(AM) and WSTX-FM, Christiansted,
U.S. Virgin Islands, Should Not Be Revoked

TO: The Full Commission

EB Docket No. 01-39

**EXCEPTIONS AND BRIEF IN SUPPORT OF EXCEPTIONS OF
FAMILY BROADCASTING, INC.**

August 27, 2001

Law Office of
LAUREN A. COLBY
10 E. Fourth Street
P.O. Box 113
Frederick, MD 21705-0113
Counsel for Family Broadcasting, Inc.

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**EXCEPTIONS AND BRIEF IN SUPPORT OF EXCEPTIONS OF
FAMILY BROADCASTING, INC.**

Pursuant to 47 C.F.R. Section 1.276, Family Broadcasting, Inc. ("Family"), by its attorney, hereby submits the following Exceptions and Brief in Support of Exceptions to the Summary Decision of Administrative Law Judge Richard L. Sippel, released in this proceeding on August 7, 2001. In support thereof, it is alleged:

I. CONCISE STATEMENT OF THE CASE

1. In a Summary Decision, released August 7, 2001, ALJ Richard L. Sippel proposes to revoke the licenses held by Family for AM Broadcast Station WSTX and FM Broadcast Station WSTX-FM, Christiansted, Virgin Islands. In his Summary Decision, ALJ Sippel points to numerous violations of the Commission's rules, and misrepresentations committed by Family during the time

period while Gerard Luz A. James was serving as president and was, in fact, in complete and total control of the corporation. Family does not disagree with any of the findings of fact made by ALJ Sippel. In fact, as the ALJ admits, Family cooperated fully in developing the factual record in this proceeding.

2. Where Family differs from ALJ Sippel is in his ultimate conclusions. As will be shown in these Exceptions and Brief, Luz James resigned on March 14, 2001, as president and director of Family, and was replaced by his daughter, Barbara James-Petersen. As will be shown, since becoming president of Family, Barbara James-Petersen has made tremendous progress in cleaning up all of the violations of the Commission's rules at Stations WSTX AM and FM. Indeed, under the direction of Ms. Petersen, Family has applied for and received special temporary authorities (STA's) which allow Stations WSTX AM and FM to operate legally for the first time in many years, and has filed applications which, when granted and implemented, will allow the stations to operate legally and in full compliance with all FCC requirements on a permanent basis. There is no evidence that Barbara James-Petersen has lied to the Commission about anything, and the ALJ has not pointed to any instance in which she did so. An application is pending for Commission consent to the transfer of all of the stock held by Luz James and his wife, Asta, to his children, Barbara, Luz II, Emmeth and Kelsey. While the ALJ had no authority to grant such an application, the Commission does have that authority. For the reasons demonstrated, infra, the Commission should exercise its authority and grant the application. With the grant of the application, Family will be under the complete control of persons who had nothing to do with any of the wrongdoing. Therefore, Family's licenses should not be revoked.

II. QUESTION PRESENTED

1. Where the president and majority shareholder of a licensee corporation was guilty of multiple violations of the Commission's rules and the terms of the stations' licenses, and also misrepresented facts to the Commission on more than one occasion, but where, in March of 2001, the wrongdoer resigned as an officer and director of the corporation, and filed an application for FCC consent to the gifting of all of his stock and his wife's stock to their children, none of whom had ever had any part, whatsoever, in the wrongdoing, did the ALJ err in proposing to revoke the licenses held by the corporation without first giving the Commission an opportunity to rule on the question of whether to approve the transfer application?

III. STATEMENT OF THE FACTS

1. In 1990, Family bought AM Broadcast Station WSTX and FM Broadcast Station WSTX-FM, Christiansted, St. Croix, Virgin Islands (BJP Dec. p. 1).¹ At the time, Gerard Luz A. James owned more than 50% of the stock of Family (Tr. 11-12) and, so far as is known by his daughter, Barbara James-Petersen, that has continued to be the case to the present time (Tr. 12).

2. Barbara James-Petersen was born on November 23, 1951, in Christiansted. From August of 1968 to May of 1971, and August of 1973 until April of 1974, she attended Mary Grove College, Detroit, Michigan, majoring in biology with a minor in chemistry. She received a Bachelor of Science degree from Mary Grove College. From August of 1976 until May 12, 1979, she attended

¹Citations: "BJP Dec." refers to the Declaration of Barbara James-Petersen, attached to these Exceptions and dated March 12, 2001. "LJ Dec." refers to the March 14, 2001 Declaration of Gerard Luz James, also attached to these Exceptions. "Tr." refers to the transcript of Ms. Petersen's deposition testimony, given on May 10, 2001. "Dep. Ex." refers to the exhibits attached to the deposition transcript. All of these documents are part of the record.

Howard University School of Law, Washington, D.C., graduating with a jurisdoctorate degree (BJP Dec. p. 1).

3. Following graduation from Howard University, she returned home to the Virgin Islands, where she became employed in her father's law office doing legal research. She remained in that capacity until June of 1980, when she returned to the mainland and became a housewife (BJP Dec. p. 1).

4. In 1990, her parents purchased Stations WSTX(AM) and WSTX-FM, and in September of 1990 she returned to the Virgin Islands to assist her family with the daily operation of the stations, becoming employed as general manager. In 1992, she became employed by the Virgin Islands legislature in the capacity of legal researcher and then Chief of Staff to Senator Gerard Luz James, II, her brother. In 1998, she returned to the radio stations as general manager and remains employed in that position (BJP Dec. p. 1).

5. Her father has always attended to all of the matters connected with the relationship of the radio stations with the FCC. He and he alone filed all required applications and reports. He never involved her in any of the work (BJP Dec. p. 1).

6. The first time that she visited the radio stations was in September of 1990. At that time, the stations had been devastated by Hurricane Hugo. The AM tower had been blown down and it became necessary to replace the tower. That occurred in the same year. After Hurricane Hugo came Hurricane Marilyn. Once again the station was devastated and the AM tower was blown down. Once again it had to be replaced. In November, 1999, the tower was blown over again in Hurricane Lenny, and Family has been in the process of replacing it again, for the third time (BJP Dec. p. 1).

7. The Commission may take official notice that Family has filed an application (File

No. BP-20010622AAF) to reduce the height of the AM tower from the 305 ft. specified in the station's license to approximately 180 ft. This will reduce the cost of the tower sufficiently to allow Family to afford to complete construction.

8. Ms. Petersen's father paid \$525,000 for Stations WSTX AM and FM. In the intervening years since he bought the stations, a series of hurricanes have wrecked havoc on the Virgin Islands. With each hurricane, more and more retail businesses have been destroyed and fewer and fewer advertisers have been available to support the stations. Nevertheless, the stations constitute the only valuable asset held by her father for the benefit of his children and his grandchildren (BJP Dec. p. 2).

9. In 1998, when she returned to the radio station, she was aware that the FM transmitter equipment was operating from the AM site, but she was not made aware that there was anything unlawful about this. She did not know the difference between an exciter and a transmitter; She was not and is not an engineer. Ms. Peteresen has since learned, however, that the operation of the FM station from the AM site is not authorized by the station's license and she has taken steps to immediately restore the FM station to legal operation by constructing a new transmitting facility on Recovery Hill in accordance with the application which has been filed by Family Broadcasting, Inc. (BJP Dec. p. 2).

10. The James family is a proud family in the Virgin Islands. Their ancestors came to the Virgin Islands some 400 years ago from Africa and Europe. Among their family they have lawyers, doctors, members of the legislature, and other prominent professions. Ms. Petersen's father is a proud man. Since the time that she was a little girl, he has tried to shield her and her siblings from any unpleasantness. Thus, Ms. Petersen never knew that he had any financial difficulties at the

Blue Mountain site, or that the station was evicted from the site for non-payment of rent, because he never told her. She always assumed that Stations WSTX AM and FM were operating perfectly legally, in accordance with all FCC rules and regulations and the terms of their licenses. Her father never gave her any hint that this was not so. Thus, when she saw the Order to Show Cause, she was utterly shocked (BJP Dec. p. 2).

11. In the Order to Show Cause, there is an allegation that Ms. Petersen accompanied an FCC inspector on a visit to Station WSTX and that during the visit the inspector discovered a hole in the fencing surrounding the AM towers. That is true. However, as soon as she discovered the hole, she immediately had it repaired and the repairs were completed by the end of the month in which the inspection took place. Now, the only access to the area is through a locked gate. During the same inspection, it was discovered that the power supply to the printer used by the EAS had failed and that the printer was inoperative. She was already aware of that and had contacted the manufacturer to send a new power supply, which arrived shortly after the inspector's visit, and the printer was restored to operation. At the time of the inspector's visit, it was also called to her attention that many items were missing from the stations' public file. At the suggestion of the inspector, she sent a person to the FCC in Washington to copy all of the documents in the stations' files. Thus, the public file was completely reconstructed within a short time after the inspector's visit (BJP Dec. p. 2).

12. Ms. Petersen's father is 75 years old and has a history of heart problems. In fact in January 2000, he was airlifted to hospital in New Orleans, where he had a triple bypass. She knows that he has always tried to do the best he could for herself and the other members of his family. She also recognizes, after reviewing the Order to Show Cause, that he made some mistakes.

She has discussed these matters with him and he has agreed to turn over all of his stock to other family members; resign as an officer and director of Family Broadcasting, Inc.; and divest himself completely of any involvement with the radio stations (BJP Dec. pp. 2-3).

13. Legal counsel was instructed to determine whether this requires the filing of applications with the FCC and, such application has been prepared and filed (File Nos. BTC-20010315AAJ and BTCH-20010315AAK). For her part, Ms. Petersen has engaged legal and engineering communications counsel to clean up any and all FCC rule violations which may exist and she assures the Commission that if she is permitted to do that, Stations WSTX AM and FM will, in the future, operate in complete accordance with the Commission's Rules and Regulations, the Communications Act, and the terms of the stations' licenses (BJP Dec. p. 3).

14. Despite the technical deficiencies in the operations of the stations, Ms. Petersen believes that they have duly served the public in the Virgin Islands. After Hurricane Marilyn, Family turned over a half hour of its programming time, five days per week, to FEMA, so that they could communicate with the devastated areas of the island. Family provides various departments of the Virgin Islands government with free airtime. For example, the Department of Public Safety has a one hour program running each week. Also, with the devastation in retail business which has occurred in recent years, Family has supplied liberal credit to all merchants, allowing them to broadcast advertisements over their facilities without requiring immediate payment. As a practical matter, this probably means without requiring payment at all (BJP Dec. p. 3).

15. Family has the only radio stations in St. Croix which are truly locally owned. There is another station which is owned by a former resident of the British Virgin Islands, but Family is the only local family to own radio stations in St. Croix. For that reason, St. Croix residents look

to Family primarily as their local radio stations (BJP Dec. p. 3).

16. Gerard Luz A. James is a 75 year old attorney. From the time when Family acquired the radio stations, Luz James personally attempted to serve as the stations' communications counsel. He now realizes that this was a great mistake. Barbara James-Petersen repeatedly entreated Luz James to engage a professional communications lawyer, but he ignored all of her entreaties. He now realizes that this was also a mistake (LJ Dec. p. 1). On March 14, 2001, Luz James resigned as president and a director of Family. At the same time, and subject to prior FCC consent, he gifted all of his stock in Family to his children, Barbara, Luz II, Emmeth and Kelsey. Although Mr. James' wife, Asta, has been guilty of no wrongdoing, she also gifted all of her stock to the same children, subject to prior FCC consent (LJ Dec. p. 2). Subsequent to the resignation of Luz James, Barbara James-Petersen was elected as Family's president (Tr. 6, 31-32). Under her leadership, applications have been filed to reduce the height of the AM tower (File No. BP-20010622AAF) and to move the FM station to a site on Recovery Hill (File No. BPH-20010316AAD). Funds to rebuild the station will be made available by Ms. Petersen's mother, Asta James (Tr. 17-18, 47, 92).

17. On March 15, 2001, an application was filed (File Nos. BTC-20010315AAJ and BTCH-20010315AAK) for FCC consent to these transactions. So far, however, the application has not yet been granted.

IV. ARGUMENT

1. In its Motion for Summary Decision, Family cited three cases in support of the proposition that the pending application for transfer of control should be granted and that Family's licenses should not be revoked, because a grant of the transfer application moots the various violations which occurred. These cases were: Petroleum v. Nasby Corporation, 10 FCC Rcd 6029

(Rev. Bd. 1995); Second Thursday Corp., 22 FCC 2d 515; 25 FCC 2d 112 (1970); and the Commission's distress sale policy as enunciated in Martin W. Hoffman, 15 FCC Rcd 22086 (2000). In his Summary Decision, the ALJ discusses these cases and distinguishes them. However, while there are always differences between cases, the distinctions made by the ALJ are differences without any real significance.

2. For example, the ALJ correctly found that all of the principals of Family, including the four proposed transferees, are minorities, i.e., African-American. That being so, the distress sale policy applies. Under that policy, as described in Hoffman, a licensee whose license has been designated for revocation hearing or whose renewal application has been designated for hearing on basic qualifications issues, is permitted to assign its license prior to the commencement of the hearing to a minority controlled entity. It also requires a sale price of less than 75% of market value. Here, we do not have an assignment of license, but we do have a proposed transfer of control from the wrongdoing party to parties who have not been involved in any of the wrongdoing. Furthermore, the sale price is zero, i.e., it is a gift. Neither the Enforcement Bureau, nor the ALJ, have been able to point to any instance in which Mr. James' children have been guilty of any wrongdoing. Neither have they been able to point to any instance in which the children have been involved in any significant violations. Hence, the distress sale policy applies and the transfer of control should be permitted.

3. The Second Thursday policy also applies. That policy, upheld and approved by the Court of Appeals in LaRose v. FCC, 494 F.2d 1145 (D.C. Cir. 1974), permits the sale where the wrongdoing party is not benefitting from the sale. Here, the proposed transfer of stock to the children of Luz James is an outright gift. Therefore, there is absolutely no benefit to the wrongdoer

and the proposed transfer is consistent with the Second Thursday doctrine. The ALJ distinguishes Second Thursday on the grounds that in Second Thursday the licensee had gone bankrupt but, that is a distinction without a real difference. The basic principle of Second Thursday remains the same: that a sale is to be permitted where the wrongdoing party is not benefitting. Actually, in Second Thursday at least one wrongdoer was benefitting indirectly, because he was relieved of secondary liability on some of the debts. 25 FCC 2d 112 at para. 6. Here, Luz James is not benefitting at all.

4. Finally, and directly in point, the Commission has permitted wrongdoers to transfer stock to their children. In a case which is practically identical to this one, Petroleum v. Nasby, *supra*, the Review Board conditionally upheld a decision by an Administrative Law Judge, renewing the license of an FM broadcast station, whose principal owner, Thomas Root, had been sentenced to a lengthy prison term for serious broadcast-related felonies. The ALJ seeks to distinguish Petroleum, because in that case the Review Board only granted the renewal on condition that the children and other family members to whom the wrongdoer had transferred his stock would enter into an arrangement to sell the radio station to a law firm to whom the wrongdoer owed substantial legal fees. There was a reason for this condition, however, *i.e.*, that one of the children and family members who had received the wrongdoer's stock had been involved in an unauthorized transfer of control. The Board state as follows:

“We note, particularly, that Kathy G. Root, who, together with her husband, was responsible for the unauthorized transfer for which Nasby seeks belated approval, would, as an individual owner, and on behalf of her children, be a beneficiary of this arrangement. In addition, it appears that Joanne Root, Thomas Root's mother, who, together with her husband, was the recipient of 70.25 of Root's shares, has succeeded Root to Nasby's three-member board and as corporate secretary. *See* tr. 63; Bureau Exhs. 11, 12. In our view, only a complete divestiture to unrelated third parties of the Root

family holdings involved in the unauthorized transfers of control can provide the Commission with adequate assurance that WSWR(FM) will not again be subjected to public scrutiny to determine the potential impact of Mr. Root's presence." 10 FCC Rcd 6033 at para. 24.

The Board also indicated a concern that the stock conveyed to Root's mother and family members might eventually end up back in Root's hands. Ibid. at para. 24. That, of course, is not a concern here. The wrongdoer is 75 years of age and there is no possibility that the stock will ever revert back to him or to his spouse. Nor have any of the stock recipients been involved in an unauthorized transfer of control.

5. The ALJ's notion that only a sale to outsiders satisfies the requirements of the distress sale policy is wrong for the following reasons:

(a) First, to the extent that it assumes that the wrongdoer might still run the company, it ignores the age (75 years) and poor health of Luz James. Even if Luz did not give up his stock (which he is committed to do, along with the stock of his wife), his time has come and gone, and control of the radio stations is passing to Barbara and her siblings.

(b) Second, it ignores the tremendous progress that Family has made since Barbara was made president in March. In just a few short months, STA's have been obtained which allow Stations WSTX AM and FM to operate lawfully for the first time in years. Furthermore, applications have been filed which, when granted and implemented, will allow the stations to operate lawfully at authorized locations and with authorized facilities on a permanent basis. The stations' public file has been rebuilt (BJP Dec., p. 2), and the stations' representation before the FCC, formerly in the hands of Luz James, has been replaced by outside communications counsel (Tr. BJP Dec., p. 3).

(c) For the reasons stated in (a) and (b), the ALJ erred when he expressed undue

concern over Barbara's ability to supply certain documents or to answer detailed questions concerning the financial status of the company. At deposition, counsel for the Enforcement Bureau developed that the reason why she was unable to produce certain tax returns is simply that Luz had failed to have the returns prepared (Tr. 41-43, 95). The same is true of many other records, including profit and loss statements. They couldn't be produced because Luz had not prepared them or caused them to be prepared. There is every reason to believe that, under the ownership of Barbara and her siblings, this will change and the stations' records will be brought up to date. This is shown by the demonstrated and very substantial progress that has already been made in achieving compliance with FCC requirements.

(d) Finally, while it is true that Barbara James-Petersen intends to rely upon some of her mother's funds, she also testified that despite the formidable obstacles she faces she believes that she can "turn it around", i.e., make the business self-sustaining (Tr. 74). The ALJ erroneously failed to credit that testimony.

6. The ALJ indicates that additional discovery and evidence would be needed to convince him that the proposed transfer of control will resolve the problems at Stations WSTX AM and FM. As it happens, a vehicle is available for this purpose, i.e., the pending application for transfer of control of Family from Luz James to his children. Pursuant to 47 U.S.C. Section 309, that application cannot be denied without a hearing. See also LaRose v. FCC, cited, supra.

7. For the reasons given above, Family respectfully submits that the record already made supports a grant of the transfer application, without any further proceedings. If, however, the full Commission is unable to make the public interest finding required to grant the application without a hearing, Family respectfully requests that the application be designated for hearing, so that

Family can introduce additional evidence for the specific purpose of supporting a grant of that application.

V. CONCLUSION AND RELIEF REQUESTED

8. For the reasons set forth above, Family respectfully requests the full Commission to direct the Mass Media Bureau to grant the pending application, File Nos. BTC-20010315AAJ; BTCH-20010315AAK, for transfer of control of Family to the children of Luz and Asta James, and to rule that with the consummation of that transaction Family's licenses for Stations WSTX and WSTX-FM shall not be revoked. If, however, the Commission for any reason is unable to make the public interest determination required by Section 309 of the Communications Act, as a prerequisite of a grant of the application for transfer of control, Family respectfully requests as alternate relief that the transfer of control application be designated for hearing and that the Commission withhold any action in this proceeding until the hearing proceedings on the transfer application are completed.

August 27, 2001

Law Office of
LAUREN A. COLBY
10 E. Fourth Street
P.O. Box 113
Frederick, MD 21705-0113

Respectfully submitted,

FAMILY BROADCASTING, INC.

By 

Lauren A. Colby
Its Attorney

ATTACHMENT I

DECLARATION OF BARBARA JAMES-PETERSEN
DATED MARCH 12, 2001

TERRITORY OF THE VIRGIN ISLANDS)
 : ss.
CITY OF CHRISTIANSTED)

DECLARATION

Barbara James-Petersen hereby declares under penalty of the laws of perjury that the following is true and correct:

1. My name is Barbara James-Petersen, and I am the daughter of Gerard Luz A. James and Asta K. James of Christiansted, St. Croix, U.S. Virgin Islands.

2. I was born on November 23, 1951, in Christiansted. From August of 1968 to May of 1971, and August of 1973 until April of 1974, I attended Mary Grove College, Detroit, Michigan, majoring in biology with a minor in chemistry. I received a Bachelor of Science degree from Mary Grove College. From August of 1976 until May 12, 1979, I attended Howard University School of Law, Washington, D.C., graduating with a jurisdoctorate degree.

3. Following graduation from Howard University, I returned home to the Virgin Islands, where I became employed in my father's law office doing legal research. I remained in that capacity until June of 1980, when I returned to the mainland and became a housewife.

4. In 1990, my parents purchased Station WSTX(AM) and WSTX-FM, and in September of 1990 I returned to the Virgin Islands to assist my family with the daily operation of the stations, becoming employed as general manager. In 1992, I became employed by the Virgin Islands legislature in the capacity of legal researcher and then Chief of Staff to Senator Gerard Luz James, II, my brother. In 1998, I returned to the radio stations as general manager and remain employed in that position.

5. My father has always attended to all of the matters connected with the relationship of the radio stations with the FCC. He and he alone filed all required applications and reports. He never involved me in any of the work.

6. The first time that I visited the radio stations was in September of 1990. At that time, the stations had been devastated by Hurricane Hugo. The AM tower had been blown down and it became necessary to replace the tower. That occurred in, I believe, the same year. After Hurricane Hugo came Hurricane Marilyn. Once again the station was devastated and the AM tower was blown down. Once again it had to be replaced. In November, 1999, the tower was blown over again in Hurricane Lenny, and we have been in the process of replacing it again, for the third time.

7. My father paid \$525,000 for Stations WSTX AM and FM. In the intervening years since he bought the stations, a series of hurricanes have wrecked havoc on the Virgin Islands. With each hurricane, more and more retail businesses have been destroyed and fewer and fewer advertisers have been available to support the stations. Nevertheless, the stations constitute the only valuable asset held by my father for the benefit of his children and his grandchildren.

8. In 1998, when I returned to the radio station, I was aware that the FM transmitter equipment was operating from the AM site, but I was not made aware that there was anything unlawful about this. I did not know the difference between an exciter and a transmitter; I was not and I am not an engineer. I have since learned, however, that the operation of the FM station from the AM site is not authorized by the station's license and I have taken steps to immediately restore the FM station to legal operation by constructing a new transmitting facility on Recovery Hill in accordance with the application which is being filed by Family Broadcasting, Inc.

9. The James family is a proud family in the Virgin Islands. Our ancestors came to the Virgin Islands some 400 years ago from Africa and Europe. Among our family we have lawyers, doctors, members of the legislature, and other prominent professions. My father is a proud man. Since the time that I was a little girl, he has tried to shield me and my siblings from any unpleasantness. Thus, I never knew that he had any financial difficulties at the Blue Mountain site, or that the station was evicted from the site for non-payment of rent, because he never told me. I always assumed that Stations WSTX AM and FM were operating perfectly legally, in accordance with all FCC rules and regulations and the terms of their licenses. My father never gave me any hint that this was not so. Thus, when I saw the order to show cause, I was utterly shocked.

10. In the order to show cause, there is an allegation that I accompanied an FCC inspector on a visit to Station WSTX(AM) and that during the visit the inspector discovered a hole in the fencing surrounding the AM towers. That is true. However, as soon as we discovered the hole, I immediately had it repaired and the repairs were completed by the end of the month in which the inspection took place. Now, the only access to the area is through a locked gate. During the same inspection, it was discovered that the power supply to the printer used by the EAS had failed and that the printer was inoperative. I was already aware of that and had contacted the manufacturer to send a new power supply, which arrived shortly after the inspector's visit, and the printer was restored to operation. At the time of the inspector's visit, it was also called to my attention that many items were missing from the stations' public file. At the suggestion of the inspector, I sent a person to the FCC in Washington to copy all of the documents in the stations' files. Thus, the public file was completely reconstructed within a short time after the inspector's visit.

11. My father is 75 years old and has a history of heart problems. In fact in January 2000, he was airlifted to hospital in New Orleans, where he had a triple bypass. I know that he has always tried to do the best he could for myself and the other members of his family. I also recognize, after reviewing the order to show cause, that he made some mistakes. I have discussed these matters with him and he has agreed to turn over all of his stock to other family members; resign as an officer and director of Family Broadcasting, Inc., and divest himself completely of any involvement with

the radio stations.

12. Legal counsel has been instructed to determine whether this requires the filing of applications with the FCC and, if it does, to prepare and file the necessary application(s). For my part, I have engaged legal and engineering communications counsel to clean up any and all FCC rule violations which may exist and I assure the Commission that if I am permitted to do that, Stations WSTX AM and FM will, in the future, operate in complete accordance with the Commission's Rules and Regulations, the Communications Act, and the terms of the stations' licenses.

13. Despite the technical deficiencies in the operations of the stations, I believe that they have duly served the public in the Virgin Islands. After Hurricane Marilyn, we turned over a half hour of our programming time, five days per week, to FEMA, so that they could communicate with the devastated areas of the island. We provide various departments of the Virgin Islands government with free airtime. For example, the Department of Public Safety has a one hour program running each week. Also, with the devastation in retail business which has occurred in recent years, we have supplied liberal credit to all merchants, allowing them to broadcast advertisements over our facilities without requiring immediate payment. As a practical matter, this probably means without requiring payment at all.

14. We are the only radio station in St. Croix which is truly locally owned. There is another station which is owned by a former resident of the British Virgin Islands, but we are the only local family to own a radio station in St. Croix. For that reason, St. Croix residents look to us primarily as their local radio station.

Further declarant sayeth not.

BARBARA JAMES-PETERSEN

Dated: March 12, 2001

By: Barbara James-Petersen

ATTACHMENT II

DECLARATION OF GERARD LUZ A. JAMES
DATED MARCH 14, 2001

TERRITORY OF THE VIRGIN ISLANDS)

)

ss.

CITY OF CHRISTIANSTED)

)

DECLARATION

Gerard Luz A. James hereby declares under penalty of the laws of perjury that the following is true and correct:

1. I am the Luz James who serves as president and a director of Family Broadcasting, Inc., the licensee of AM Broadcast Station WSTX(AM) and FM Broadcast Station WSTX-FM, Christiansted, St. Croix, U.S. Virgin Islands. I make this Declaration in response to an order to show cause, released by the FCC on February 13, 2001.

2. At the outset, let me explain that I am 75 years old and I am a licensed attorney in the Virgin Islands. The James family, of which I am a part, is one of the proudest families in the Virgin Islands. We have produced lawyers, doctors, state legislators and many other professionals. My son, Gerard Luz A. James, II, presently serves as Lt. Governor.

3. From the time when Family Broadcasting, Inc., acquired Stations WSTX AM/FM in 1990, I have personally attempted to serve as the stations' communications counsel. In retrospect, that was a great mistake. My daughter, Barbara James-Petersen, repeatedly entreated me to engage a professional communications lawyer, pointing out that I was not a specialist in communications law. I ignored her entreaties and that, also, was a mistake.

4. At paragraph 15 of the order to show cause, the Commission raises the question concerning the reasons why the WSTX-FM transmitter was moved to an unauthorized location. Frankly, the transmitter was moved in 1995, because Family Broadcasting, Inc., was evicted from the Blue Mountain site for non-payment of rent. To the extent that I have stated otherwise, my statements were inaccurate.

5. I did not make these inaccurate statements for the purpose of deceiving the FCC. Rather, I was embarrassed and humiliated by the fact that I had been unable to pay the rent, and I sought to conceal that fact from my family, friends and clients, because I wanted to shield our family from public disgrace and humiliation. Perhaps I was also in denial and did not wish to bring myself to face the fact that such a thing had happened.

6. In retrospect, I realize I had made a mess of the representation of Family Broadcasting, Inc., before the FCC, and that I needed to take steps to correct the mistakes that I have made. Aside from a modest home, Radio Stations WSTX AM/FM are the only thing of value that I have to pass on to my children. I have this day resigned as president and a director of Family Broadcasting, Inc. Additionally, subject to prior FCC consent, I am gifting all of my stock in Family

Broadcasting, Inc., to my children, Barbara, Luz, Emmeth and Kelsey. Although my wife, Asta, has been guilty of no wrongdoing, she is also gifting all of her stock to the same children, so as to avoid even the appearance that I am retaining stock in my wife's name in order to retain control of the business. My wife and I understand that these gifts require prior FCC consent and an application for such consent will be filed immediately.

Further declarant sayeth not.

GERARD LUZ A. JAMES

Dated:

March 14, 2001

By:

Gerald Luz James

CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that
copies of the foregoing have been sent via facsimile and first class, U.S. mail, postage prepaid, this

27th day of August, 2001, to the offices of the following:

Honorable Richard L. Sippel
Administrative Law Judge
F.C.C.
445 12th Street, S.W.
Room 1-C768
Washington, D.C. 20554

Charles Kelley, Esq.
James Shook, Esq.
Kathy Berthot, Esq.
Enforcement Bureau
Investigations/Hearing Division
F.C.C.
445 12th Street, S.W.
Room 3-B443
Washington, D.C. 20554


Traci Maust